

1951

59706

S. E. ASIA

EASTERN

BRUNEL

1951

59706

CLOSED
UNTIL

1982

CONSTITUTIONDEVELOPMENTE
1227

Previous

1950

Subsequent

SEA 31/8/01

H531

9/1

Mr Nield H532

10/1/51

1) Mr McPetrie (H.241)

12/2

2) Sir G Whitley

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Mr. Nield.

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Copying Dept H431

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Mr. Nield.

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Mr. Nield.

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Mr Nield

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Mr. Nield.

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Mr. Neale

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Miss Laidie

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CO 943/2/1

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1. Sarawak Desp 26 — 30. 12. 50

This is the reply to our despatch at No. 2 on the 1949 file concerning the revision of legislation and the establishment of a Constitution for the State of Brunei.

The Governor agrees generally with the views of the Legal Advisers in the C.O., as outlined in the despatch at No 2/1949 papers, but suggests that the provision for validating laws enacted by the Resident should be effected under the Revised Edition of the Laws Enactment rather than under an Enactment providing for a constitution. I note that, in his minute of 21/7/50 on 1949 file Sir K Roberts-Wray referred to the possibility of validating the laws in this way and it would seem therefore that we can agree the Governor's suggestion. Legal Advisers will perhaps be

be good enough to comment.

3

AHield

10/1/51.

I have no comments.

JCH:Petrie

12/2.

Between reply saying we have no comments
on his proposals in (1) shall look
forward to receiving the opinion in draft
as advised in para. 7.

S.C.W.

13/2.

32/3. **2** Sarawak Desp: 27 Confidential —

16 FEB 1951

Mr. Hield,
no reply to (2).

JCH:worth.
30/3

Wait a month

AHield

30/3/51 atom

Mr. Hield,

your memo of 30/3.

Jb.
2/4.

From information I have gleaned
from another file it would seem
that

that this revision of legn. is still
under conser.

H

(25/6)

B

Bu. again in 2 months

Hield

27/4/51 atom

Mr. held

En. vide your min. 27/4 above.

Johnstone.
25/6.

Continue to wait.

(25/7)

Hield

25/6 atom

B

Mr. held

Nothing further to (2) received.

? Progress.

Wolgreen 25/7

I think we must continue to
wait a little longer.

(27/8)

Mr. ~~Johnstone~~ should see
this file.

Hield

26/7 atom

B

Mr. Heale,

Ref. Mr. held's min. 26/7 above - nothing further to (2)

received

Johnstone.
27/8.

Continue to wait. 27/8

27/9

1/6

Mr. Neale -

Your min. 27/8 overleaf.

RB. 27/9.

26/10

B.U. - 1 month

Seck 27/9.

RB

Mr. Neale -

- Your min. - 27/9.

RB. 26/10.

4/1/52

B.U. at beginning of January.

A. S. S.
27/10.

RB

CLOSED
NO FURTHER
ACTION
TO BE TAKEN
IN THIS FILE.
CONTINUED ON:-
SEA 31/8/01

6 2

59706/1/51

12/C/207

SARAWAK

NO. 27

CONFIDENTIAL

COLONIAL OFFICE,
The Church House,
Great Smith Street,
London, S.W.1.

/6 February, 1951

Sir,

I have the honour to acknowledge the receipt of your confidential despatch No.26 of 30th December, 1950 on the subject of legislation in Brunei.

2. I have no further comments to make on the proposals as outlined in your despatch under reference and I await the receipt of the draft legislation which you propose to submit for examination by my legal advisers.

I have the honour to be,
Sir,

Your most obedient,
humble servant,

(Signed) J. GRIFFITHS

GOVERNOR,

A.F. ABELL, ESQ., C.M.G.,

etc., etc., etc.

59706/11/51

2

C. O.

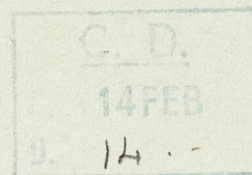
Mr. *Nield 13/2/51* ✓

Mr. *[Signature]*

Mr. _____

Mr. _____

Mr. _____



Permt. U.S. of S.

Parly. U.S. S.

Minister of State

Secretary of State

16 February 1951

16 FEB 1951

Your Reference _____

DRAFT.

Despatch

Sir,

I have etc. to ackn.

SARAWAK

GOVNR

No.

27

(1)

CONFIDENTIAL

(Your Ref: 12/C/207.)

*the receipt of your
confidential despatch No. 26
of 30th December 1950 on
the subject of legislation
in Borneo*

*2. I have no further
comments to make on
the proposals as outlined
in your despatch under
reference and I await
the receipt of the draft
legislation which you
propose*

FURTHER ACTION.

propose to submit for
examination by my
legal advisers.

I have etc.

(Signed) J. GRIFFITHS.



12/C/207

CONFIDENTIAL.

SARAWAK.

OFFICE OF THE GOVERNOR,
KUCHING,
SARAWAK.

30 December, 1950.

No. 26

Sir,

I have the honour to refer to your Confidential Despatch No. 20 of 17th. August, 1950, on the subject of legislation in Brunei.

2. Your comments on the proposals originally forwarded in Mr. Dawson's Confidential Despatch No. 7 of 14th. October, 1949, have been fully considered and I agree that the modifications of these proposals suggested by you appear, with one exception, to be the most expeditious and practical method of achieving the object desired.

3. To deal with the present proposals individually. I agree that

(a) an Interpretation and General Clauses Ordinance should be enacted and a Government Gazette established;

(b) a Revised Edition of the Laws Enactment be enacted and a Revised Edition prepared thereunder;

(c) an Application of the Laws Ordinance (following the lines of the Sarawak Application of Laws Ordinance) should be enacted;

(d) a Law governing the exercise of legislative powers and providing for the constitution and powers of the State Council be enacted.

4. It was further proposed by you that this last Enactment should contain provision validating laws enacted by the Resident. I am advised that the validation of the latter laws might be better effected under the Revised Edition of the Laws Enactment (my paragraph 3 (b) above refers) than under an Enactment providing for the constitution and powers of the State Council. It is relevant that the identification by description in such an Enactment of the laws to be validated might present difficulties which would not apply to validation under the Revised Edition Enactment.

5. With reference to the enquiry in paragraph 5 of your Despatch under reference I agree that it is desirable to include in the Interpretation and General Clauses Ordinance a definition of "Sultan in Council", but that a definition of this body's

status /.....

The Right Honourable James Griffiths,
P.C., M.P., etc., etc.,
Colonial Office,
The Church House,
Great Smith Street,
LONDON. S.W.1.

status and functions would more properly be included in the Enactment providing for the constitution and powers of the State Council. I think it desirable that the latter Enactment should be regarded, as it is described in paragraph 6 of your Despatch, as an interim measure pending consideration of such questions as the Sultan's rights under the existing treaties, his competence to grant a constitution and the character of a new treaty. It may not be possible to complete the study of these questions or to obtain agreement on the answers thereto in the immediate future, and it therefore appears to be advisable to legalise the present practice and procedure for legislation in Brunei, as a separate step in a process which should be completed by the establishment of a Constitution.

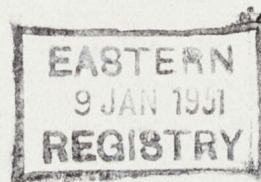
6. With reference to the question raised in paragraph 7 of your Despatch of what law the Court applies in matters not covered by Enactment the present practice in the Brunei, as in the Sarawak Courts, is to apply English law subject to such qualifications as local circumstances and native customs render necessary. Particular attention will be paid in the drafting of the Application of Laws Enactment to the desirability for legislation as far as possible parallel with that of the other two Borneo territories and assimilated as far as possible to that of Singapore and the Federation of Malaya.

7. Draft legislation on the lines indicated above will be prepared as soon as possible and forwarded for examination by your legal advisers.

I have the honour to be,
Sir,
Your obedient servant,

H. A. M.

GOVERNOR.



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Constitutional Development. 1951. MS Records of the British Colonial Office CO 943/2/1. The National Archives (Kew, United Kingdom). State Papers Online Colonial, link.gale.com/apps/doc/FDPVNU627646281/SPOC?u=omni&sid=bookmark-SPOC&pg=1. Accessed 21 Dec. 2024.